

**UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT**

\_\_\_\_\_  
No. 16-1136  
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B&B ALEXANDRIA CORPORATE  
PARK TIC 34, LLC,

Appellant,

v.

DC 12-13 FUND, LLC,

Appellee.

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**CONSENT MOTION FOR AN EXTENSION OF  
THE DEADLINES IN THE BRIEFING ORDER – CIVIL**

Appellant, B&B Alexandria Corporate Park TIC 34, LLC (hereinafter referred to as “Appellant” or “Debtor”) and Janet M. Meiburger, the Chapter 7 Trustee of the Debtor, by their undersigned counsel, respectfully move pursuant to Fed. R. App. P. 26(b) and Local Rule 31(c) for an extension of the deadlines in the Briefing Order- Civil (the “Briefing Order”), and in support state the following:

This Court’s Briefing Order dated February 10, 2016, presently has the Appellant’s Opening Brief and Joint Appendix due March 21, 2016. (See Doc. 3). On March 8, 2016, the United States Bankruptcy Court for the Eastern District of Virginia, Judge Brian F. Kenney, held a hearing in the Appellant’s bankruptcy case

whereat Judge Kenney granted a motion by the United States Trustee to convert the Appellant's Chapter 11 bankruptcy case to a case under Chapter 7 of Title 11 of the United States Code. On March 11, 2016, the Bankruptcy Court entered an order converting the bankruptcy case to chapter 7, and the United States Trustee appointed Janet M. Meiburger as the Chapter 7 Trustee. The United States Trustee also scheduled the § 341 of the Bankruptcy Code meeting of creditors for April 7, 2016.

As this Court has held, "in a Chapter 7 proceeding the trustee alone has standing to raise issues before the bankruptcy court and to prosecute appeals." Richman v. First Woman's Bank (In re Richman), 104 F.3d 654, 657 (4th Cir. 1997). Thus, it appears that the Debtor may not have standing to prosecute this appeal upon conversion and it appears that the Chapter 7 Trustee is the proper party to prosecute it at this time.<sup>1</sup>

The Chapter 7 Trustee needs additional time to familiarize herself with this appeal and prepare an Opening Brief and Joint Appendix. Accordingly, the

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<sup>1</sup> A chapter 7 trustee can choose to abandon claims. 11 U.S.C. § 554(a). The Debtor asserts that abandoned claims automatically revert back to the Debtor. The Appellee claims that the Debtor must intervene in this matter to have standing. Nothing in this Motion shall preclude either party from asserting their rights in this appeal.

Appellant respectfully requests the Court to modify the Briefing Order. The requested extensions will provide the Chapter 7 Trustee with the time necessary to review the case, preside over the § 341 of the Bankruptcy Code meeting of creditors, and prepare an Opening Brief and Joint Appendix.

Nothing in this Motion is intended to affect any of the parties' rights and all rights are expressly reserved.

Pursuant to Local Rule 27(a), the undersigned counsel conferenced with counsel to the Appellee. Counsel for the Appellee has consented to the relief requested, as evidenced by the signature below.

WHEREFORE, Appellant B&B Alexandria Corporate Park TIC 34, LLC respectfully requests the Court to extend the deadlines outlined in the Briefing Order – Civil, allowing the Appellant until April 14, 2016, to file its brief and the appendix, allowing the Appellee until May 19, 2016, to file its response brief, and allowing Appellant until June 2, 2016, to file its reply.

Respectfully submitted,

Appellant, B&B Alexandria  
Corporate Park TIC 34, LLC

By: /s/  
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-and-

## CHAPTER 7 TRUSTEE

/s/  


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APPELLEE, DC 12-13 FUND, LLC

/s/

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 15th day of March 2016, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Fourth Circuit by using the CM/ECF system. I certify that the foregoing document was served on all parties or their counsel of record through the CM/ECF system if they are registered users or, if they are not, by serving a true and correct copy at the addresses listed below:

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/s/

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